



Class LB 2826

Book T2 A5

1840

Author \_\_\_\_\_

Title \_\_\_\_\_

Imprint \_\_\_\_\_



# REPORT

OF THE

*Tennessee General Assembly*  
JOINT SELECT COMMITTEE,

ON THE

OFFICIAL MISMANAGEMENT

OF THE

SUPERINTENDENT OF PUBLIC INSTRUCTION.

MADE JANUARY 7, 1840.

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NASHVILLE,  
J. GEO. HARRIS, PUBLIC PRINTER.  
1840.

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## REPORT.

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THE Joint Select Committee who were appointed under a Joint Resolution of the General Assembly of the 18th ult. to *enquire*:

1st. Whether the Superintendent of Public Instruction employed any part of the Common School Fund in speculating in Treasury notes, and notes and bills of the United States Bank of Pennsylvania? if so, what amount, and the profits made thereon, and whether he has accounted for said profits?

2d. The amount of the School Fund he has used in his private mercantile speculations?

3d. Whether he has not received and collected monies due the School Fund for which he has not accounted?

4th. Whether he has not, without authority of law, expended the School monies for various purposes?

5th. What steps he has taken to collect the debts due the School Fund, if any?

6th. How, at what time, and under what circumstances the several debts reported by the Superintendent to be due from individuals, and by him said to have arisen by the lending of the Common School monies, were originally contracted? how often the same has been renewed? and what rate per centum, if any, was originally discounted?

7th. How much of the Internal Improvement Funds he has received, which was considered School Funds, and from what county?

8th. And what disposition has been made of the Academy Fund under the act passed the 25th January, 1838?

They beg leave respectfully to *Report*:—

FIRST. With regard to the speculations of the Superintendent, by the purchase of Treasury notes, &c., with the School Fund. He answers the Committee on this subject as follows: "On one occasion (I believe in the year 1838,) I sent by an agent to Calhoun between twenty and thirty thousand dollars of the School Fund, consisting of current and uncurrent bank notes, to be converted into bankable money." He goes on in his answer to give his reasons for this proceeding. He says: "If I received

five hundred dollars in Tennessee and Alabama notes, I converted the whole into Treasury notes, or United States Bank notes, or eastern funds, of course giving a premium for the good funds thus obtained, these were again sold for Tennessee money, which was credited to the Fund, so that on all occasions the money received by me, whether good or bad, was charged to me, and credited to the Fund, as so many dollars, and then converted, in the manner above stated, into monies which were bankable." He adds: "*Whenever I could effect a transaction of this kind, I did it either here or elsewhere.*" The Calhoun expedition did not succeed well. He sent to New Orleans in 1837 and '38 some thirty thousand dollars in Alabama and Mississippi money, to be converted into good money, but his attempt did not prove successful, and he informs us that he bore the loss himself. Your Committee called before them Samuel E. Gilleland, who testifies touching the adventure at Calhoun; he says: "Col. M'Ewen entrusted to my charge, (in the spring of 1838,) at my suggestion, twenty or twenty-five thousand dollars in notes of the Georgia, Alabama and Tennessee banks;" that he did not succeed in making an exchange, and returned the money to Col. M'Ewen. The Superintendent having stated that he made these exchanges merely to dispose of depreciated money, your Committee were induced to examine Mr. Van Wyck, an exchange broker of intelligence, as to the value of Georgia, Alabama and Tennessee bank notes in the spring of 1838. He says, "Alabama money was at par for Tennessee money in the spring of 1838, and large notes at a premium of from one to two *per cent.* over Tennessee until the middle of May." He further states that "Georgia money commanded as high as three *per cent. premium* over Tennessee money in the spring of 1838, but only in a few instances. Small notes were generally bought at a discount; at any rate, no premium was allowed for such." He states further, "I think a considerable lot of Georgia and Alabama money could have been passed at par, in the spring of 1838, for Planters Bank notes or other Tennessee money." If the statement of Mr. Van Wyck be true, (and the Committee have every confidence in it,) the conclusion is, that there was no necessity whatever, even if it had been lawful, for the Superintendent to send to Calhoun in the spring of 1838 some twenty or twenty-five thousand dollars of the School Fund, to have the same exchanged for bankable funds.

Your Committee are at a loss, and have been, from the commencement of this and a preceding investigation, to know from whom the Superintendent obtained all the *unbankable* money of which he speaks. There was and is no law authorising him or his agents to receive it. They have examined the agents of Campbell, Hickman, Robertson and Jackson counties, who hap-

pened to be here, to know what kind of money they received, and what kind they were instructed to receive. They state, generally, that they were instructed to receive Tennessee money, or money at par with Tennessee money; that they did receive such, except in some few instances the change tickets payable about Nashville were taken and paid over. Your Committee have not been able to ascertain from the Superintendent from whom he received this supposed bad money, when he received it, or in what quantity. The only information he gives us upon this subject is as follows: "Having received, as I was obliged to do, from those who had the custody of the Common School monies before my appointment, a large amount of uncurrent bank notes of every kind, current in the particular district of country from which I received it, it became a very important part of my official duty, as must be obvious to every human being on earth, to convert that money into funds which could be employed in the manner designed by the legislature. With that view, I made an arrangement with the firm of M'Ewen, King & Co., whereby I engaged to redeem their circulation, on their agreeing to authorise me to draw upon their house in New Orleans, a house at the time of the arrangement in as good credit as any other in the country for the amount which I might redeem. My drafts were to be paid in New Orleans funds, which were then, as they have generally since continued to be, above the par of Tennessee money. This arrangement failed, as did many other arrangements made by banks and individuals at that period."

In reply to this extraordinary statement of the Superintendent, the Committee know of no law which obliges him to receive uncurrent money from any person whatever, nor do they know of any law which even justifies him in so doing; nor can they see how any money could be worse than the notes of M'Ewen, King & Co., which he undertook to redeem in Nashville. Your committee have reason to believe, that the Holly Spring Bank was insolvent when established, and has always been so. It never was in good credit in this country, and it was a gross dereliction of duty in the Superintendent, as such, to have any thing to do with the notes of that establishment. The Committee have examined Messrs. Holson and Nichol relative to the credit of the house of M'Ewen, King & Co., and from their testimony, the credit of the house, if ever it had any, was extremely limited.

The foregoing embraces the substance of the information obtained by your Committee, touching this part of the enquiry.

**SECOND.** The amount of the School Fund used by the Superintendent in his mercantile speculations; the debt due from Wm. B. Robinson & Co., is one item (as was explained in a former report.)

The Superintendent holds too obligations on John Scott,

which may be seen in a former report. The Committee have examined Mr. M'Ewen concerning the interest in the store carried on in the name of John Scott; to the enquiry, he makes the following answer, in which it is doubtful, which claims the greatest share in his affections, the welfare of the School Fund or Mr. Scott. "In the month of May 1834, I advanced to John Scott in whose business and abilities I had confidence, several thousand dollars in cash, to be used *without paying interest* in trade, in his own name, and the profits thence arising to be divided between us, but I have never been concerned *in any way* in the management of his business, nor do I know whether it has been profitable or not. The money advanced to him as Superintendent consists of two sums, one of them, including interest, amounts to ten thousand dollars. The principal of this sum was invested by him in the purchase of the house in which his business is conducted. The title was made to him, he executed a mortgage thereof, dated 1st July 1839, to me as Superintendent and my successors in office, which has been duly acknowledged and registered—Scott now pays me as Superintendent \$900 a year for the house, equivalent to nine per cent. interest on the money invested therein, and with which rate I have charged myself in my account; besides this, Mr. Scott pays the taxes, amounting to near \$100 and keeps it constantly insured. This investment is I think at least as secure and productive as the stock of *any existing bank*. The remaining sum of \$7,000 was advanced to Mr. Scott (a great part of it in uncurrent money received by me, which was not bankable at Nashville, from county agents and others previously having the custody of the School Fund,) upon his own note, endorsed by me individually, and for which I am *individually responsible*. The money has been used, I suppose, in the payment of his current debts—his note for this sum was not given to me since I ceased to have an interest in his business, but before that period. The sum of \$7,000 was not advanced to Mr. Scott in a single sum, but in many small sums, principally in uncurrent money, or such as was not bankable at Nashville, and it was done with the double purpose of accommodating him and the converting the money into sound or bankable funds; in effecting this purpose he has been of great use to me, and in fact, the object could not have been attained without the aid of some one engaged in business by whom the money could be exchanged or otherwise employed. He has from time to time exchanged for me as Superintendent, of uncurrent into current funds, a large amount, and so far from taking blame to myself for employing his agency in this business, I have always supposed that it was decidedly advantageous to the State. In making these exchanges, I have several times employed agents, and on one occasion Mr. Scott was employed to go to New Orleans and Mobile, which in



both instances was done at my own expense and without any charge to the public."

From the foregoing no one can doubt that the money advanced to Mr. Scott was directly or indirectly invested in a mercantile speculation. The School monies lent to M'Ewen, Whiteman & Co., were stated and referred to in a former report. Adding these several sums together, we find, that the Superintendent has directly and indirectly invested in mercantile speculations, including interest up to the 8th October last, the sum of forty-three thousand seven hundred and eighteen dollars—to-wit:

To John Scott,	16,638 50
" M'Ewen, Whiteman & Co.	14,600 00
" Wm. B. Robinson & Co.	12,479 50
	<hr/>
	\$43,718 00

If he has employed any more of the School Fund, in mercantile speculations than above stated, your Committee have no evidence of that fact.

From the testimony of Gen. Clements, it appears that since his appointment to the office of Superintendent, he was engaged in the purchase of lands in Mississippi, in Arkansas and in Texas. R. H. M'Ewen, Jesse B. Clements and two other persons were partners in the Mississippi speculation. Gen. Clements being the active partner, Col. M'Ewen and one of the other partners gave him a letter of credit to draw upon them jointly to the amount of \$20,000. The amount of lands owned by said firm was one eighth of eighty sections, which belonged to the Pontotoc and Holly Springs Land Company. The extent of his interest in the Arkansas lands is unknown. R. H. M'Ewen is a member and the President of the Texas Land Company; the extent of his interest in that company is also unknown. Whether he employed the public money in the purchase of these lands or whether he used his own private funds, your Committee are not advised.

**THIRD.** The monies which the Superintendent has collected and received and for which he did not account to the Joint Select Committee, appointed under a resolution of the 16th November last, are as follows:

The interest on the Common School Fund of Davidson, Rutherford and Bedford counties, invested in Turnpike Stock,	3,000 00
Interest on same from 8th April 1837, the day he received it to 18th Nov. 1839,	459 00
To Internal Improvement Fund of Hickman county, improperly paid to Superintendent as Common School Fund, in March 1836,	1,509 40
Do. Do. of Stewart county, do.	1,200 42

Making the sum of

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\$6,168 82

With regard to the first item, the Superintendent states, that "he has had the same lent out" and therefore is chargeable with interest. The last two items, he says, "he has not lent out but has had the same always on hand;" in addition to this sum, there is a balance of Academy money in his hands, as shown by his report to the Legislature in 1836, and by his answers on that subject of

	\$5,283 67
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To which add the balance as above	6,168 82
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Also the balance reported by the Committee raised under a joint resolution of the 16th Nov. last,	121,169 05
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To which if we add the amount of Alabama and Georgia money in his hands on the 18th Nov. last,	1,560 00
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	\$134,181 54
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We find that there was on the 18th November last, or ought to have been in the hands of the Superintendent the sum of one hundred and thirty-four thousand one hundred and eighty-one dollars and fifty-four cents.

By the act of December 17, 1831, the School Funds of Davidson, Rutherford and Bedford counties were directed to be invested in the Nashville, Murfreesborough and Shelbyville Turnpike Road. The funds consisted at that time of notes on various individuals. They were accordingly transferred and collected by the company as follows:

Davidson county,	11,885 44
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Rutherford do.	12,878 62
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Bedford do.	12,770 33
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To accumulated interest of Rutherford county made principal,	1,775 16
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Do.	Davidson	do.	1,638 20
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	\$40,947 75
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Deduct insolvent claims for Rutherford co.	419 31
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Do.	do.	Bedford	do.	180 00—599 31
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Amount actually received by said company,	\$40,348 44
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There is now due from the company to the School Fund some twelve thousand dollars of interest.—Bedford has received the interest on her fund up to 13th June, 1836. The other counties have not received any interest since the investment of their fund. They are certainly entitled to whatever may have accrued on their funds up to the 19th February, 1836, when the act which transferred their funds into the general account was passed. The interest due to Rutherford county up to the 19th February, 1836, is

Do.	Davidson	Do.	3,671 70
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	3,672 56
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Brought over,	7,344 26
And the following sums, to wit:	
To Carter county accumulated interest,	400 00
“ Dickson do.	1,285 00
“ Stewart “ Internal Improvement Fund,	1,200 42
“ Hickman “ do.	1,509 40

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\$11,739 08

are justly due those counties, and as they were placed in the hands of the Superintendent by mistake or the neglect of those counties,—a resolution directing them to be paid over to the proper persons, will, in the estimation of your Committee, be sufficient.

**FOURTH.** The next enquiry is, whether he has not without authority of law expended the school monies for various purposes?

The act of 1836, chap. 23, sec. 15, provides “that all monies reasonably expended, incurred by the Superintendent in the execution of his duties shall, upon due proof, be allowed to him by the Comptroller and be paid out of the Treasury.” Your Committee have enquired of the Comptroller whether he has ever made any allowance to the Superintendent for his reasonable expenses, and he informs us “that he has not.”

The Superintendent has exhibited to us his expense account to 18th November last, amounting to \$20,853 62, which is \$137 93 more than the expense account exhibited by him to your Committee on a former examination. With regard to this expense account, the Superintendent has acted improperly in two respects; 1st, he has not had the same allowed by the Comptroller and paid out of the *Treasury*, which is a positive requirement of the law.—2d. He has expended the School monies for purposes wholly unauthorised by the duties of his office. He had a right *with the concurrence of the Board of Common School Commissioners* to incur expenses in settling up the accounts and redemption of the notes of the old Bank, in postage, in printing for distribution, a reasonable number of instructions to County School Commissioners, and others, the purchase of books and stationery, salaries of agents, lawyers and clerks fees; but for clerk hire and office rent, neither the Comptroller, or the Legislature should make him any allowance whatever. The Superintendent has exhibited to us, among other items of his expense account, the following:

Cash paid John Scott for office rent and fuel 2 years	\$250 00
Do. do. do. do. 1 do.	125 00
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	\$375 00

This money has been paid out of the School Fund & the occa-

sional use of the counting room of the store of Mr. Scott, which store the Superintendent says was purchased with the School money. If these items could be allowed, the Superintendent might with the same propriety charge the School Fund with bed and board.

His account for clerk hire is as follows:

"Statement of clerks with the amount paid each by the Superintendent, to wit:"	
John Scott,	\$100 00
Wm. Erwin,	50 00
Nathaniel Cross,	75 00
John M'Ewen,	14 06
John Erwin,	20 00
<hr/>	
\$259 06	

There is no law for this expenditure; neither the Comptroller or Treasurer asks for any such allowance. In his expense account there are these small but extraordinary items "cash paid Commissioners of Rutherford county for settlement with clerk five dollars; also cash paid for copy of Caruthers and Nicholson's reports (per office) five dollars." These and similar items ought not to be allowed. Your Committee are of opinion that the salary of agents provided for by the 23d chap. of the act of 1836, and reasonable attorney's fees ought to be allowed and paid out of the School Fund, but his other expenses are inadmissible until they are first allowed upon due proof by the Comptroller and then should be paid out of the Treasury.

FIFTH. As to the steps taken by the Superintendent to collect the debts due the fund from the securities of Joel Parrish and the old Bank debts, he says, in answer to an enquiry upon that subject, "that he has taken no coercive measures against the securities of Joel Parrish, but has endeavored without success to collect them otherwise;" he further says, "so great a number of the debts due the old Bank were disputed or bad, that to have taken steps to have collected all of them, would have involved the Fund in expenses which would have swallowed up much more than would have been collected from those that are good."

Your Committee are of opinion that the Superintendent is correct in the view he has taken of this matter. He has no excuse however, for not collecting the money due from the securities of Joel Parrish, and it is probable that a portion of that money will be lost by his neglect. He has placed a large number of the claims in the hands of attorneys for collection—he has shown your Committee a statement from the books of the old Bank, setting forth the names of the debtor thereto, but your Committee have very little confidence in the correctness of the books of the old Bank, and they believe it would be an unnecessary and useless

expense to publish the names of those who are supposed to be debtors.

SIXTH. The Committee in a report heretofore made, exhibited in a table marked E. a statement of the notes and securities in the hands of the Superintendent and said by him to belong to the School Fund. They have made some enquiries to know whether these debts originated in that way or not. The Superintendent informed us "that he had no other notes and securities, by him before that time taken for and on account of the School Fund, and by him before that time lent and which had been liquidated." By reference to the table E. it will be seen that but two of these notes, amounting to about \$18,000 were dated anterior to the 1st of Jan. 1838, yet, he had in his hands for more than twelve months previous to that time an average amount of \$70,000. What use he made of this money, your Committee are wholly unable to determine; that he did use it, there can be no doubt. The speculation in Mississippi lands in which he was engaged about that time afforded, no doubt, a strong temptation for the investment of this balance. The Committee are informed by Gen. Clements, "that some \$600 of the debt charged to him in table E. was due from him to Col. M'Ewen, prior to the date of his appointment to the office of Superintendent, and that the discount upon the bill was fifteen per cent." He further states that with regard to the debt due from Dennis & M'Kinney, "that about the 20th of February last, Col. M'Ewen in a conversation told me that M'Nairy wanted his part of that note, or something to the same purport, but did not say which of the M'Nairys it was, nor did he say what part or interest M'Nairy owned in said note." With regard to the bills drawn by Gen. Clements—he says, "I was advised by Col. M'Ewen, that he was of opinion that I could have the bill discounted at the Bank of Yeatman, Woods & Co., in which however, I failed. Col. M'Ewen then informed me, either that he knew of a person or that he had a friend (who did not wish his name to be known and whose name I never learned) who had money, which he would invest in the purchase of good paper, but that person would not buy the bill unless I would allow a discount in the bill of fifteen per cent." The bill was negotiated for him by Col. M'Ewen, and he informs us that "some time during the past spring or summer and some fourteen months or more after the maturity of said bill of exchange, Col. M'Ewen informed me the same belonged to and constituted a part of the Common School Fund of this State, which was the first intimation I ever had of such being the case, to the best of my recollection." Col. M'Ewen also stated to him "that he would have to pay him at the rate of nine per cent. on the amount of said bill from the time of its maturity until paid," which he agreed to do and gave a memorandum to that effect, but since

he had come to Nashville, Col. M'Ewen informed him, that he had burnt said memorandum and that he would only charge him six per cent. on said bill.

In relation to the debt of \$14,388 85 due from Dennis & M<sup>r</sup>. Kinney, the Committee have examined Mr. Dennis, and, if any thing can be made of his testimony in any way, it is, that the debt originated in 1832. The amount then owing to Mr. M<sup>r</sup>. Ewen from the firm was \$3,994; that, by repeated renewals, in the way of bills, cashed at a heavy discount, and by borrowing additional sums, it has increased to its present amount. If we add fifteen per cent. *per annum* to the original sum, from 1832 to the present time—thus,

Original debt,	\$3,994 00
15 per cent. discount for seven years,	4,193 70

We will find that about	\$8,187 70
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of this debt did not grow out of the School Fund.

There is a debt, in table E of the Report above referred to, against S. E. Benson, amounting to \$647 06. The Committee have examined Mr. Benson and Mr. Hunt about this debt. Mr. Benson says that "it is correctly reported, and is his individual debt;" there is, according to the testimony of Mr. Hunt, upon the books of Benson, Hunt & Co. the following entry:—"April 30, 1838; Sundries to Cash—Bills payable—paid our due bill to R. H. M'Ewen \$5,841 31." Mr. Hunt says that Mr. Benson informed him "that he had borrowed the money from R. H. M'Ewen, and that it belonged to the Common School Fund." Mr. Benson says, "he has since been informed by Col. M'Ewen that some portion of the monies borrowed did belong to the School Fund, but he did not know the fact at the time the same was borrowed."

From what has been said, it will be perceived that it is utterly impossible for your Committee to ascertain with any certainty the points in this part of the enquiry. They submit the above facts, together with all the evidence they have on this subject, which will be found in the journal of their proceedings.

**SEVENTH.** The Internal Improvement Fund which the Superintendent has received as School Fund has been stated above.

**EIGHTH.** The act of 1838, chapter 139, "requires the Superintendent to ascertain the amount of principal of Academy Fund which each county in the State has received under any distribution heretofore made, and that he apply such Academy Funds as he now has or may hereafter receive in the following manner, that is, he shall distribute and pay over to in equal sums to such counties as have received no portion of the Academy Funds," &c.

With regard to the duties of the Superintendent under this act, the Committee enquired of him "whether he had received

any Academy Funds since his report on that subject to the Senate on the 2d October, 1837? if so, how much? and how much and to what Academies had he paid out monies since?" By his report to the Senate, in 1837, he had received—

From the Cashier of the Nashville Bank, in good notes well endorsed,	\$5,512 50
He also holds a note on Elijah Embree, well secured,	4,472 88
In his answer to the above interrogatory, he states that he had received since the 2d October, 1837, in notes from the Cashier of the Nashville Bank,	1,837 50
From the Bank agent of Monroe county a note,	116 00
	<hr/>
	\$11,938 88

He further states in his answer "that of these notes there yet remains uncollected,"

Leaving in his hands,

6,655 21  
5,283 67

Which he says he has not paid out for the use of the Academies in pursuance of said act.

The foregoing it is believed embraces all the enquiries submitted to the investigation of your Committee, and from the facts here stated, together with those heretofore submitted to the General Assembly, every one must be impressed with the necessity of passing a law making the private use of public monies, placed in the hands of a public officer for safe keeping or disbursement, a penal offence. In the investigation which has been made, your Committee have found it necessary from the powers given them to send for witnesses and examine them; their testimony has all been reduced to writing and is herewith reported; they also report herewith a full account of the Suspended Debts due the Bank of the State of Tennessee, which to them and to the Superintendent is almost unintelligible—many of the individuals there reported as debtors will be found, on examination, to owe nothing, others to be insolvent or runaway; some of the debts are good, and no measures taken as yet to collect them; and to sum up the whole matter, it is utterly impossible, without a judicial investigation of each case, to state an account of the debts due and owing to said Bank.

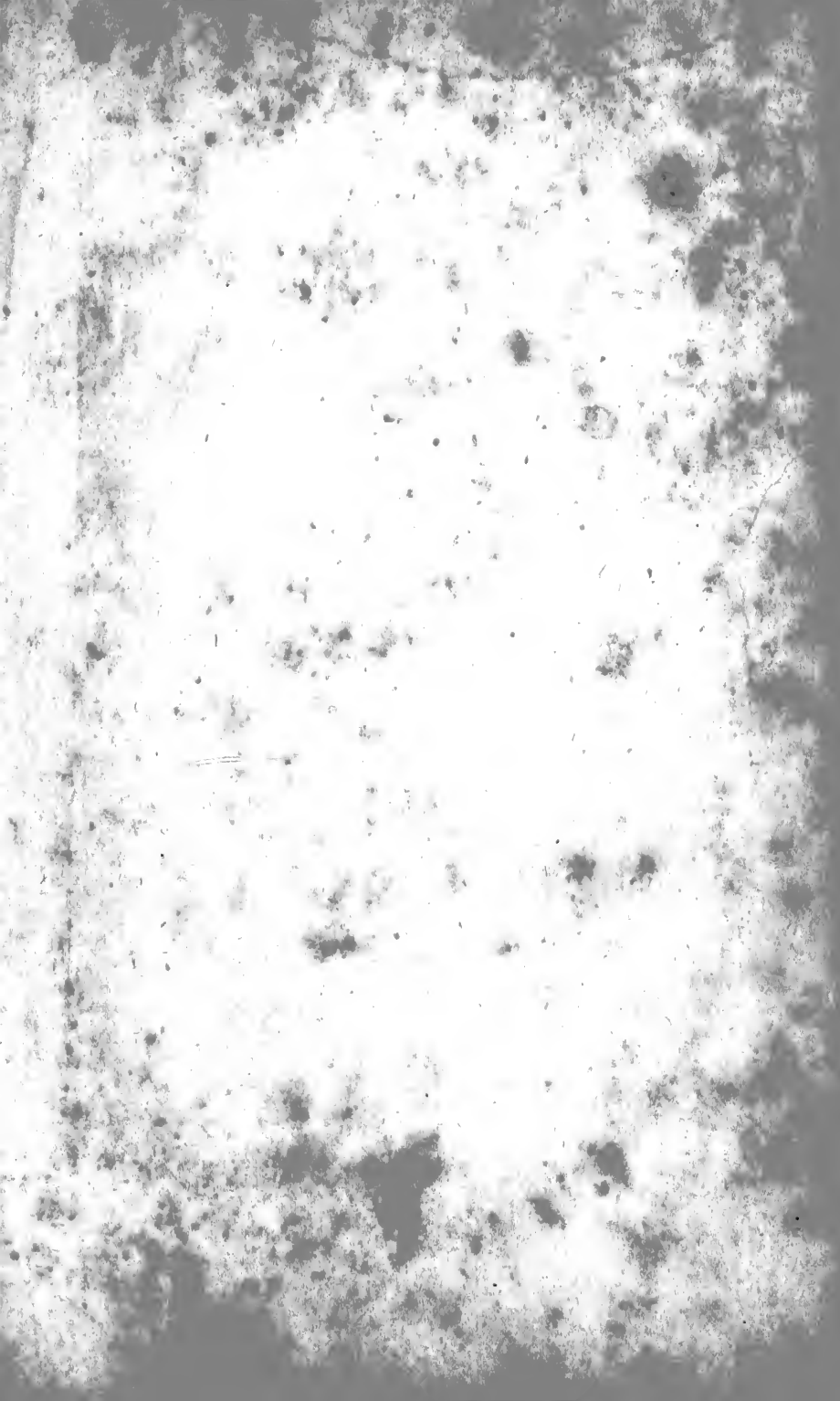
All of which is respectfully submitted,

H. YOAKUM, <i>Chairman</i> ,	} <i>Senate</i> <i>Committee.</i>
JOHN E. WHEELER,	
A. JOHNSON, <i>Chairman</i> ,	} <i>House</i> <i>Committee.</i>
BARKLEY MARTIN,	
R. N. FARQUHARSON,	

January 7, 1840.

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